

## **REMARKS**

### **I. Status of the Application**

At the time of the Action, Claims 1, 4-11 and 13-14 were pending. The drawings have been objected to under 37 C.F.R. § 1.83(a).

Applicants appreciate that the Examiner has withdrawn the rejections based on U.S. Patent No. 2,161,648 to Widman (Widman). However, all pending claims stand rejected under either Section 102(b) or Section 103(a) based on various other references. These objections and rejections are addressed below.

### **II. The Drawings**

The Action objects to the drawings and takes the position that the feature recited in Claim 9 (*i.e.*, that the cushioning projection has at least one opening) is not shown. *See* the Action, page 2. Applicants respectfully disagree. At least one opening in the void 125 is shown, for example, in **Figure 2**. The embodiments of the invention illustrated in **Figure 2** include an opening at both ends (*See* Specification, page 6, lines 10-13), which clearly illustrates "at least one opening" as recited in Claim 9. Noting that this objection was not raised in previous Official Actions, Applicants request that the objection be withdrawn for at least the above reasons.

### **III. The Rejections of Independent Claim 1**

The Action rejects independent Claim 1 under Section 103(a) as obvious over U.S. Patent No. 3,952,455 to McAlarney (McAlarney). The Action further rejects Claim 1 under Section 103(a) as obvious over U.S. Patent No. 2,185,161 to Tinnerman (Tinnerman) in view of U.S. Patent No. 1,998,791 to Schanz (Schanz).

Claim 1 recites an article of furniture, including:

first and second confronting furniture components, wherein one of the first and second furniture components comprises a frame and the other of the first and second furniture components comprises a movable member connected with the frame and movable from an open position to a closed position; and

a device for protecting the first and second confronting furniture components, the device comprising:

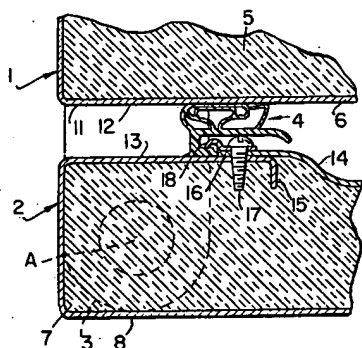
a base member having opposite first and second faces, the first face adapted to contact the first furniture component, the base member having a cushioning projection extending outwardly from the second face of the base member and covering and defining a void within the base member, the projection adapted to contact the second furniture component as it confronts the first furniture component; and

a clip connected to the base member, the clip having a first member attached to one end portion of the base member and a second member attached to the first member, the base member, first member and second member defining a cavity within which one of the first or second furniture components is captured to affix the device thereto, wherein the device is formed as a unitary member and is entirely formed of a polymeric material.

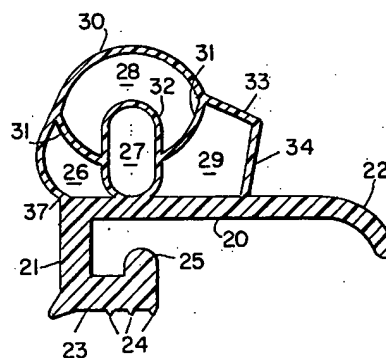
The rejections based on McAlarney and Tinnerman in view of Schanz are addressed below.

#### A. McAlarney

With respect to McAlarney, the Action takes the position that the strip 16 is part of the door 2 (see **Figures 1 and 2** of McAlarney below). The Action identifies elements 21, 23 and 25 as equivalent to the clip (see the Action, page 4) and concludes, "the clip is considered to capture a furniture component." See the Action, page 11.



**FIG. 1**



**FIG. 2**

However, Claim 1 recites furniture components that include "a frame and a movable member connected with the frame and movable from an open position to a closed position." The strip 16 in Figure 1 of McAlarney is clearly not equivalent to a frame or a movable member that is movable from an open position to a closed position as recited in the Claim 1, and as such, the elements 21, 23 and 25, which the Action identifies as a clip, do not capture a furniture component. Therefore, McAlarney does not teach or suggest all of the recitations of Claim 1 as required by § 103.

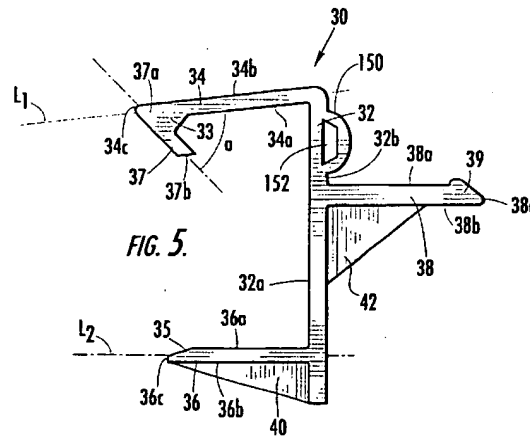
**B. Tinnerman and Schanz**

The Action concedes that Tinnerman does not disclose a clip connected to the base member. The Action takes the position that the projection 15 of Schanz is equivalent to the claimed clip member.

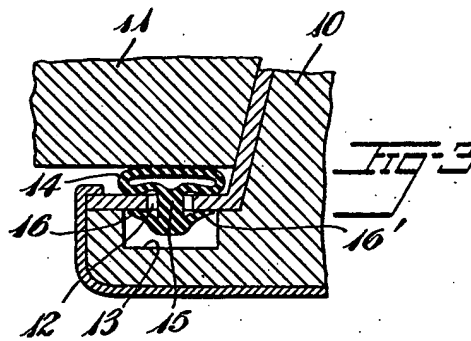
Applicants submit that neither Tinnerman nor Schanz discloses all of the recitations of Claim 1. Claim 1 recites a first member connected to a base member and a second member connected to the first member. With respect to the base member, Claim 1 also recites

a base member having opposite first and second faces, the first face adapted to contact the first furniture component, the base member having a cushioning projection extending outwardly from the second face of the base member and covering and defining a void within the base member, the projection adapted to contact the second furniture component as it confronts the first furniture component

For example, as shown in **Figure 5** reproduced below, the clip includes the base member 32 (including cushion 150) and the first member (panel 34) is connected to the base member 32. The second member (hook 37) is connected to the first member (panel 34).



These three members are clearly not shown in the projection 15 of Schanz (see **Figure 3** of Schanze below).



In particular, Schanze does not disclose that the first face of the base member is adapted to contact the first furniture component and that the base member has a cushioning projection extending outwardly from the second face thereof that is opposite the first face as recited in Claim 1. If the Action considers the middle portion of the projection 15 of Schanz to be the "base member," then there are no two opposing faces such that one is adapted to contact the first furniture component and the other has a cushioning projection thereon. In addition, the configuration of the first and second members is also not shown in the projection 15 of Schanz.

These features are also not disclosed by Tinnerman, which the Action concedes does not disclose a clip. Therefore, Applicants submit that these features are not disclosed or suggested by Tinnerman or Schanz as required by § 103.

**C. Conclusion**

In view of the foregoing, Applicant submits that the rejections of Claim 1 and claims dependent therefrom under Section 103(a) based on McAlarney or based on Tinnerman in view of Schanz cannot stand because none of these references disclose at least one element of Claim 1.

**IV. Rejections of Claim 5**

The Action rejects Claim 5 under Section 102(b) as being anticipated by U.S. Patent No. 2,858,583 to McEvoy ("McEvoy") and under Section 103(a) as being unpatentable over McAlarney in view of McEvoy. The Action concedes that McAlarney fails to disclose that the planar portion of the base member across the void has a thickness that is less than the thickness of the base member. The Action takes the position the McEvoy teaches a planar portion that has either the same thickness (**Figure 2**), more thickness (**Figure 2a**) or less thickness (**Figure 2b**). *See* the Action, page 8. In response to Applicants' previous arguments, the Action further states that McEvoy illustrates that the portions are flat. *See* the Action, page 12.

Applicants respectfully disagrees with the Action's characterization of McEvoy under Sections 102/103. **Figure 2** of McEvoy illustrates a weatherstrip device that has a planar portion that appears to be the same thickness as the portion **26**, which the Action appears to identify as the base member. However, the portion **32** of the weather stripping that is opposite the seal member **25** (which the Action identifies as equivalent to the cushioning projection) in **Figure 2b** is clearly not planar and not flat as maintained in the Action. McEvoy discusses this feature in column 2, lines 56-72 (emphasis added):

The base **26** beneath the arcuate portion **30** may be flat, as shown in Figure 2, or may have its cross-sectional thickness increased gradually

from the lines of juncture of the arcuate sealing portion with said base inwardly to the central longitudinal portion of said base, as shown in Figure 2A, whereby the base is more rigid and tends to resist mechanical forces acting in directions which would cause the weatherstrip seal member to be displaced from the groove. Or, if desired, the base may have its cross-sectional thickness decrease gradually from the lines of juncture toward the center, as shown in Figure 2B.... Such control of the thickness of the cross-section of the base provides for controlling the ease with which the seal member may be inserted in or removed from the groove of the body member.

Therefore, McEvoy discusses that the base 26 may be either flat and the same thickness as the arcuate portion 30 (**Figure 2**) or the base may have an increasing or decreasing cross-section (**Figure 2A**) to control "the ease with which the seal member may be inserted in or removed from the groove." See col. 2, lines 68-72. McEvoy does not disclose a base that includes a portion opposite the arcuate portion 30 is both planar and has a thickness that is less than that of the base as recited in Claim 1. Moreover, the portion in **Figure 2A** of McEvoy is not planar or flat as maintained on page 12 of the Action. As noted above, McEvoy specifically discusses the outwardly increasing cross section of the base 26 in **Figure 2A**, which is therefore not planar.

In view of the foregoing, Applicants submit that the rejections of Claim 5 under Section 102(b) as being anticipated by McAlarney or under Section 103(a) based on McAlarney in view of McEvoy cannot stand because none of these references disclose at least one element of Claim 5.

#### **V. Rejections of Claim 13**

Claim 13 stands rejected under Section 102(b) based on either of McAlarney or Wilson, and under Section 103(a) based on (i) McAlarney (ii) Tinnerman, Schanz and Wilson. Claim 13 includes the same recitations regarding the structure of the clip as does Claim 1. As such, Claim 13 should be similarly free of the cited references. Consequently, Applicant requests that the rejections of Claim 13 be withdrawn.

In re: Marsh et al.  
Serial No.: 10/820,186  
Filed: April 7, 2004  
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**VI. Conclusion**

Inasmuch as all of the outstanding issues raised in the Action have been addressed, Applicants respectfully submit that the application is in condition for allowance, and requests that it be passed to allowance and issue.

Respectfully submitted,

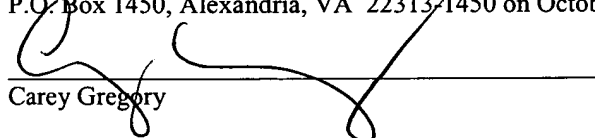


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